

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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In the Matter of)
)
Policies and Rules)
Governing Interstate Pay-Per-Call)
and Other Information Services)
Pursuant to the Telecommunications)
Act of 1996)

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

CC Docket No. 96-146

REPLY OF SOUTHWESTERN BELL TELEPHONE COMPANY

The Comments filed in this docket demonstrate two things. First, there is widespread support for the Commission's efforts to stop the industry abuse which has arisen since the implementation of the TDDRA. Second, certain companies will stop at nothing to twist the rules to serve their own business purposes.

I. **THE WRITTEN PRESUBSCRIPTION AGREEMENT**

It is Southwestern Bell's understanding that the dictionary definition of "agree"--"to grant consent"--means that a written agreement must be executed by the end user customer, contrary to Pilgrim Telephone's belief that Congress did not intend that the agreement be executed in writing.¹ The Commission should clarify (for Pilgrim and others looking for a way around the presubscription agreement) that the agreement must be executed (signed) by the subscriber of the local telephone service. Agreements transmitted electronically should also require execution by the end user.

¹See Comments of Pilgrim Telephone, Inc. at p. 13.

The Commission is concerned that the subscriber to the originating line be afforded the protections outlined in the Commission's rules limiting the use of toll free numbers for the provision of information services.² The Commission mistakenly states that extension of those rules would "ensure that a telephone subscriber will not be billed for information services obtained by another individual . . ." Unless the Information Provider (IP) can identify the subscriber, the IP cannot ensure that unauthorized billing will not be submitted to the Local Exchange Carrier (LEC). Only the subscriber of the originating line can legally execute a presubscription agreement allowing charges to be billed via the telephone bill. Since the FCC requires LECs to tariff Billing Name and Address (BNA) information, IPs (or the entities from whom they contract for billing) should be required to utilize BNA to ascertain whether the person entering the presubscription arrangement is truly the subscriber of the line and therefore the responsible billing party. Without such a requirement, unauthorized use and unauthorized billing will continue despite the intentions of the Commission.

II. CALLING CARDS

Suggestions that instant "calling cards"--given to a customer accessing an information service--are essentially the same as cards issued by common carriers are laughable. Pilgrim has suggested that "so long as a code or number is issued by a common carrier which results in charges to the telephone number of the caller, regardless of the

²See FNPRM para. 44, p. 16.

location of call origination, the Congressional definition of calling card and use of the exemption is satisfied.”³ If the Commission agrees, we would be right back where we started when an unauthorized caller could dial an 800 number and receive a PIN (purported to be a calling card). Many information services would then allow access from other locations but would be billed back to the telephone number associated with the original PIN. Instant calling cards should not be allowed if issued in conjunction with an information service, or if used mainly for access to an information service.

SWBT also wants to emphasize again that if a LEC card is accepted for information services billing, the Commission should require LIDB validation for every call to the service. Some companies validate periodically--once a week for the same card, or once every ten times it is used. Without constant validation, an invalid card or one that has been pulled down because of fraud could continue to be accepted.

III. ACCESS TO 900 BLOCKING INFORMATION

Pilgrim has suggested that access to LECs’ 900 blocking information could effectively block customers from information services offered over other dialing patterns.⁴ Pilgrim assumes that LECs have complete information regarding which subscribers want blocking of 900 calls. LEC information, however, is incomplete. Many customers, including hotels, universities and hospitals, do not subscribe to 900 blocking service, because 900 dialing can be blocked through their customer provided equipment. Nonetheless,

³See Comments of Pilgrim Telephone, Inc. at p. 15.

⁴See Comments of Pilgrim Telephone, Inc. at p. 28.

continued requests for 900 blocking information lead SWBT to believe that the services provided belong on 900 dialing codes.

IV. THE PROPOSED PER SE RULE

To stop IPs from using tariffed services to provide information services, the Commission has proposed that reimbursement from a carrier to an IP should constitute per se evidence that the amount charged the end user exceeds the charge for transmission of the call. SWBT agrees with the comments of the Direct Marketing Association that the language used by the Commission may be too broad.⁵ The Commission must make clear that free services accessed by toll calling are not included in the rule. For example, if someone in another state calls Texas for weather information provided free by a local bank, the caller understands that, by dialing "1+" and a different area code, that the call is not free; however, the consumer also knows that his call is being carried by his long distance carrier of choice, and that he is presumably paying a reasonable long distance charge, not a charge for the information.⁶ Such free local services are clearly distinguishable from interstate services access by a particular long distance provider, generating a charge over and above that which the consumer would pay if he could access the service through his own long distance carrier.

⁵ See Comments of Direct Marketing Association at p. 3.

⁶ SWBT does not provide local weather and time, Pilgrim's accusation notwithstanding. See Comments of Pilgrim Telephone, Inc. at p. 39.

V. PROVISION OF BILLING AND COLLECTION SERVICES

SWBT agrees with MCI that pay-per-call and 800 charges should be segregated on the bill. Such segregation does not require a separate page, however, only a separate section of the bill.⁷ SWBT also agrees with the National Association of Attorneys General that, for information and/or pay-per-call services, there is no legitimate basis to designate a number in a telephone subscriber's bill, which is not the number actually dialed. Providers should be required to submit the number dialed as the destination number in the billing record.

Finally, SWBT disagrees with Pilgrim's assertion that LECs discriminate in billing. LECs are required to provide billing and collection on a non-discriminatory basis. That requirement does not mean, however, that LECs cannot make business decisions not to bill for certain types of services, particularly those harmful to both LECs and consumers.


⁷ See Comments of MCI at p. 5.

VI. CONCLUSION

Some unscrupulous companies are more than willing to circumvent the Commission's pay-per-call rules. Inevitably, such conduct reflects negatively upon LECs. SWBT therefore supports the Commission's efforts to stop the abuses in the pay-per-call market.

Respectfully submitted,

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Certificate of Service

I, Elaine Temper, hereby certify that the Reply of Southwestern Bell Telephone Company on Docket No. 96-146 has been served this 16th day of September, 1996 to the Parties of Record.

A handwritten signature in cursive script, reading "Elaine Temper", is written over a horizontal line.

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